

# **THE LEONARD LETTER**

*A weekly electronic newsletter about  
California government, business and taxes  
Bill Leonard, Member  
State Board of Equalization*

*August 21, 2006*

## **QUOTE OF THE WEEK**

*"Temptations come, as a general rule, when they are sought." --- Margaret Oliphant, Scottish novelist and historian (1828-1897)*

## **UNDER THE DOME**

### **\*\*\*End of Session Silliness\*\*\***

The good news for the people of California is that this legislative session is in the last days and there is only so much damage they can do. The bad news is that they will pass a great many bad and silly bills between now and then. I just learned about one that made me laugh out loud. S.B. 1329, the Access to Healthy Food Act, will create a new grant program to help inner-city stores carry fruits, vegetables and other healthy foods. The idea behind the bill is that many inner-city grocery stores have closed completely and the small, convenience shops (i.e., liquor stores) do not carry many healthy staples, opting instead for alcohol, candy and fatty snacks. This is one of those chicken-and-egg situations: do inner-city grocery shoppers not eat healthy food because it is not available to them, or is healthy food not available to them because they do not purchase it? Knowing the incredible efficiency of markets (in both the larger sense and the grocery store sense), if there is a demand for fruits and veggies, there will be a supply. For us to spend tax dollars putting such foods into liquor stores where people go for booze and chips will simply be a waste. Indeed, I suspect much of the fruit will sit untouched, fermenting until it becomes a product that liquor store consumers actually are demanding.

### **\*\*\*Redistricting Reform\*\*\***

Senators Lowenthal and Ashburn have done something that does not happen very often. They have forced both houses of the Legislature to consider reforms that most of the members would rather not see. Redistricting is the ultimate insider's issue as the public does not seem to care and the enormous consequences fall greatest on the incumbents who would benefit from the favorable redrawing of district lines. I personally am open to whether SCA 3 makes the 2006 or the 2008 ballot. The real news is the state senate became the first legislative body in the nation to voluntarily suggest that someone else draw their lines. Lots of assembly members endorsed the concept when they thought it was doing to die. Now that it is before them I trust they will

follow through on their commitments and will pass this important reform. It is crucial to the public process that legislative districts cover logical regions and are as competitive as possible. Speaker Nunez, please call up SCA 3 for a vote.

## AROUND THE STATE

### \*\*\*Employer/Employee Loyalty\*\*\*

My friend Steve Frank posted a commentary  
<http://www.capoliticalnews.com/discuss.php?id=608>

about the breakdown of the traditional relationships in commerce and industry between the workers and the owners. Many companies have long term and very close relations with their employees, while others, as Frank points out, do not. This reminded me of a couple of cases that have come before the Board of Equalization regarding a new type of company altogether. These companies lease employees. As strange as that may sound, it makes sense and is a growing part of the market. Many companies do not want to devote resources to interviewing and hiring people, especially in areas of frequent turnover. Nor do they want to spend valuable resources complying with all of the record keeping demanded by the government, or paying the usual payroll taxes, worker compensation premiums, and environmental fees. (Yes, there is a California tax requiring companies to pay a fee to help the environment and that fee/tax is based on how many people they employ.) These leased employees go to work at one company doing the job there, but their paycheck, W-2, and other employment related things come from the employee leasing company. Who do the employees actually work for? The employee leasing company. What work do they do? The work at another company entirely. In fact, some of these employee leasing companies actually put a clause into the contract that requires a "penalty" to be paid by the company if the leasing company's employee becomes an employee of the company where they actually show up to work. As Steve Frank said, this throws employer/employee loyalty out the window.

How many are affected by this trend? The Census Bureau recently reported on non-employer businesses: those that have no paid employees, but hire contract or temporary workers, such as those described above. Such businesses represent 70% of all business establishments although their business activities represent less than 3% of national sales receipts. California's non-employer businesses grew by 5.3%, higher than the national average of 4.75%. Over the past five years, the national growth rate has been 20.8% with California's up to 22.3%. That means that in 2004 there were 2.5 million non-employer businesses in the state. The fastest types of non-employer businesses are real estate, construction and service/personal care services.

## TAX TIPS

### \*\*\*Ghost Taxation\*\*\*

*From the Bill Leonard Blog 8/17/2006*

The California Franchise Tax Board has sunk to a new low. At last week's BOE meeting we heard a taxpayer appeal where the government argued that money was due on ghost income.

Two couples sold their business. They paid a huge amount in state taxes on the money they received for the business. They did not pay any tax on the balance of the money owed that was not yet due. Years later it turns out that the buyer could not pay the balance so the note was cancelled. Nevertheless, the FTB argued that the state should get an interest payment on this cancelled debt as if it had been paid at the time of the original sale! Neither the FTB nor the majority of the BOE could get the simple fact that these folks never got the money! The state should be honoring people who pay this much in taxes, not hounding them.

### **\*\*\*One More Tax Cheat\*\*\***

I just read that former gubernatorial candidate Nick Jesson has pled guilty to state tax evasion, after previously pleading guilty to federal tax evasion. Apparently, he was cooperative and he paid restitution, so he will be allowed to serve his three-year state sentence concurrently with his federal sentence.

Jesson's campaign for governor was remarkable because so many reasonable people were quick to believe him when he claimed to have found a way to avoid paying income taxes and employee payroll taxes. In a debate with fellow Republican candidates Bill Simon and Bill Jones, Jesson ridiculed his opponents for their more traditional views on taxation, while making the outlandish claim that California has a "\$400 billion budget surplus" (based on his own misreading of the Controller's annual report showing the value of state assets). Nick Jesson's tax-free siren song attracted trusting supporters to his campaign from all over the state, eager to believe that he had found a new way to alleviate their tax burden. He attracted almost 20,000 votes in a high-profile, seven-candidate Republican primary election. His billboards and campaign signs sprang up everywhere, often so close my Board of Equalization campaign signs that people thought we must be running on a ticket of some sort.

In the end, Jesson's story provides yet another lesson for tax evaders everywhere: you will get caught and when you do, it will cost you a great deal more than it would have cost to comply with the tax laws in the first place. Our tax burden is certainly too high and our tax laws are too complex and unfair, but changing the system requires political action rather than dishonest accounting and tax fraud. Jesson and other snake oil salesmen leave behind a trail of broken lives, ruined businesses, and lost fortunes wherever they convince innocent-but-gullible people to participate in their tax schemes. What is worse, these anti-tax charlatans give all taxpayer advocates a bad name and undermine the broad-based effort to reduce our tax burden.

## **MISCELLANY**

### **\*\*\*California County History\*\*\***

Santa Barbara is one of the counties that is split between Board of Equalization districts. The communities of Buellton, Carpinteria, Goleta, Lompoc (including Vandenberg), Los Alamos, Mission Hills, Montecito, Orcutt, Santa Ynez, Solvang, and Toro Canyon are in my District 2. The balance of the county is in District 1 represented by my colleague Betty Yee. Santa Barbara was one of California's original counties created in 1850. The Chumash tribe lived in the region

for thousands of years before the Presidio period, but the Santa Barbara Channel received its name from Sebastian Vizcaino when he sailed over the channel waters in 1602. In 1782, Padre Junipero Serra dedicated a site near the channel for a presidio and on December 4, 1786, he founded the nearby Mission Santa Barbara (named for Saint Barbara) from which the county derives its name.

In 1812 a major earthquake was recorded in the county. It destroyed the La Purisima Mission in Lompoc and was felt 100 miles away. The soldiers living in the Santa Barbara Presidio abandoned the structure and spent the next year living in thatched huts. The San Francisco Bulletin newspaper of March 16, 1864 offers this report of a possible tsunami in Refugio Bay caused by the earthquake:

“At the time [of the 1812 earthquakes] a Boston ship, the *Thomas Newland*, known before as the *Charon*, commanded by Capt. Isaac Whittemore, was lying off anchorage not far from the Gaviota Pass, Santa Barbara County, engaged in smuggling, with the old Padres, for otter skins, tallow and hard dollars--a nice little business in 1812--when the sea was seen to retire all at once and return in an immense wave, which came roaring and plunging back, tearing over the beach fit to crack everything to pieces. This wave penetrated the low lands of the gulches a mile from the shore, forming one of the most terrific sights possible to conceive. That old ship, then under the name *Charon*, afterward took 1,800 otter skins to the Sandwich Islands [Hawaiian Islands], and landed them, too; but a few days afterwards she was captured by the English man-o-war *Cherub* and taken as a prize to London.”

### \*\*\*A Good Read\*\*\*

One of my favorite subjects of study is Abraham Lincoln, so I was pleased to see another analysis by Doris Kearns Goodwin, writing “Team of Rivals: The Political Genius of Abraham Lincoln.” Goodwin shares the political genius of Abraham Lincoln through his relations with his cabinet. Principal members of his cabinet included William Seward (State), Edward Bates (Attorney General), Salmon Chase (Treasury) and Edwin Stanton (War). The first three were also his principal rivals for the Republican nomination for the presidency. Even Mr. Lincoln realized that he “was not the first choice of many” for the Presidential nomination. The three others had more distinguished political records and all thought they were more deserving of the office than Lincoln. Stanton had treated Lincoln with contempt at their first meeting for a celebrated law case in 1855 and then six years later, Lincoln offered Stanton the “most powerful civilian post within his grasp.” Lincoln’s realism, political insight and amazing ability to focus on goals, seek numerous opinions and forget about personal affronts enabled him to deal with the very divergent factions within the Republican party and the country as a whole as well as the running of the country and eventually, the prosecution of the war. It would be difficult to imagine any of the others both achieving the Presidency and successfully prosecuting the Civil War during the initial years when the Union forces seemed relatively inept.

What was also apparent from “Team of Rivals” was just how hard life was during Lincoln’s era. Death, severe illness and injury were constant companions for everyone, rich and poor, urban and country, North and South. All of the characters discussed suffered family tragedies before or during their tenure in office. Another point Goodwin makes is how the country was divided

about so much more than slavery, even though that is what we tend to concentrate on these days. Other issues separating Americans included trade and tariffs with Europe, improvements (now called infrastructure) to speed development of the West, and anti-immigrant bias. It is a keen reminder that there is nothing new under the sun.

## **BOE AND LEGISLATIVE DATES**

**August 29, 2006** --- BOE meets in Sacramento.

**August 31, 2006** --- Final recess of legislature begins upon adjournment.

**August 31, 2006** --- Free Tax Seminar for Nonprofit and Faith-based organizations in Roseville. For more information/registration, go to:  
<http://www.boe.ca.gov/sutax/nonprofitsched.htm>

**September 4, 2006** --- Labor Day.

**September 12-13, 2006** --- BOE meets in Culver City.

**September 14, 2006** --- Free Tax Seminar for Nonprofit and Faith-based organizations in Santa Barbara. For more information/registration, go to:

<http://www.boe.ca.gov/sutax/nonprofitsched.htm>

**September 21, 2006** --- Free Tax Seminar for Nonprofit and Faith-based organizations in Fairfiled/Vacaville. For more information/registration, go to:  
<http://www.boe.ca.gov/sutax/nonprofitsched.htm>

**September 27, 2006** --- BOE meets in Sacramento.

**September 30, 2006** — Last day for Governor to sign or veto bills passed by the Legislature before September 1 and in his possession on or after September 1 (Art. IV, Sec.10(b)(2)).

**October 5, 2006** --- Free Tax Seminar for Nonprofit and Faith-based organizations in Ontario/Chino. For more information/registration, go to:  
<http://www.boe.ca.gov/sutax/nonprofitsched.htm>

**October 9, 2006** --- First day absentee ballots will be mailed to those who have requested them.

**October 9, 2006** --- Columbus Day.

## **NOTABLE DATES/ HISTORY**

**August 21, 1831** --- Slave Nat Turner began a slave rebellion in Southampton County, Virginia. More than 50 whites were killed and it took six weeks for Turner to be caught.

**August 21, 1858** --- Abraham Lincoln and Stephen Douglas met in the first of a series of debates on the subject of slavery during the Illinois senatorial race. While there were thousands of voters in attendance at these debates, it was actually Members of the State Legislature who selected the U.S. Senator.

**August 22, 1864** --- Twelve nations signed the Geneva Convention, which established rules for the treatment of wounded and the protection of medical personnel in wartime. A red cross on a white background was selected as a symbol.

**August 23, 1305** --- Scottish nationalist William Wallace was executed in London as a traitor against King Edward I of England. He was tried in Westminster Hall, London, and promptly hanged and quartered.

**August 23, 1927** --- Niccola Sacco and Bartolomeo Vanzetti, Italian immigrants and anarchists, were executed for murder. The case became famous because many argue the two were convicted because of their radical political views and immigrant status, rather than for evidence beyond a reasonable doubt.

**August 24, 79** --- The volcano Mount Vesuvius in Italy erupted, burying the cities of Herculaneum, Pompeii, and Stabia in ashes and mud.

**August 24, 1814** --- In the last months of the War of 1812, British forces invaded Washington, D.C., and set fire to the Capitol and the White House.

**August 24, 1992** --- Hurricane Andrew devastated southern Florida, causing \$20 billion of property damage and killing 41 people.

**August 25, 325** --- The first Council of Nicaea ended. The leaders of the Christian church had adopted the Nicene Creed, affirming the Holy Trinity and fixing the schedule of the yearly celebration of Easter.

**August 25, 1718** --- French colonists in Louisiana established a settlement named for the Duc d'Orléans, regent of France, which later became the city of New Orleans.

**August 25, 1839** --- U.S. Coast Guard officers boarded *L'Amistad*, a ship anchored off Long Island. African slaves on the ship had revolted against their captors and taken control of the vessel.

**August 25, 1862** --- President Abraham Lincoln authorized the enlistment of African-American soldiers in U.S. Army.

**August 26, 55 BC** --- Roman forces under Julius Caesar invaded Britain.

# GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115  
TDD service for the hearing impaired  
TDD phones: 800-735-2929  
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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